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DOMICIL AS AFFECTED BY INTENDED CHANGE OF RESIDENCE.—The domicil of a person may be defined as "the State or country where a party actually or constructively has his permanent home."¹ And the definite locality of his domicile within a state or country is the county wherein he actually resides.² The above definition of domicil is quite clear, as an abstract principle of law; but its application to concrete cases may involve questions of great difficulty "depending sometimes on minute shades of distinction which can hardly be defined."³

It is the law of all civilized nations that a natural person must always be held to have a domicil somewhere.⁴ And no such person can have more than one domicil at the same time,⁵ (subject to a qualification which, however, is beyond the scope of the present discussion⁶). The supposition that a person may have more than one domicil would lead to the most absurd consequences. In time of war, if his domicils were within the districts of different sovereign states, what would be an imperative duty in one would be an act of treason toward the other. Or, suppose they were in different counties of the same state, the results would be equally absurd, were he required to do jury service in both counties at the same time. It is easily seen, therefore, that since a person must have a domicil, and can have but one at a time, a domicil once acquired must be presumed to continue until another is gained.⁷ The old domicil is not lost by mere abandonment, even when abandoned with intent to acquire a new one—the actual acquisition of the domicil must have been effected;⁸ for if the old domicil were lost before a new one was gained, a person could be without a domicil—a result that is directly opposed to the well settled rule laid down above. The acquisition of a new domicil involves an actual presence in the new place and at the same time an intention to reside there permanently.⁹ Neither the intent to change the domicil,¹⁰ nor the actual presence in a new place is of itself sufficient; they must concur, and the moment they do concur the

¹ MINOR, CONFL. L. § 23. See *Jopp v. Wood*, 4 De G. J. & S. 616; *Price v. Price*, 156 Pa. St. 617, 27 Atl. 291.

² See *Ewing v. Mallison*, 65 Kan. 484, 70 Pac. 369, 93 Am. St. Rep. 299.

³ *Abington v. Bridgewater*, 23 Pick. (Mass.) 170, 179.

⁴ MINOR, CONFL. L. § 27; *Shaw v. Shaw*, 98 Mass. 158.

⁵ MINOR, CONFL. L. § 28; *Baker v. Baker Co.*, 162 Ky. 683, 173 S. W. 109. See also, *Abington v. Bridgewater*, *supra*.

⁶ *Talbot v. Chamberlain*, 149 Mass. 57, 3 L. R. A. 254.

⁷ MINOR, CONFL. L. § 29; 1 VA. LAW REV. 396. See *Abington v. Bridgewater*, *supra*.

⁸ *Somerville v. Somerville*, 5 Ves. 750; *Shaw v. Shaw*, *supra*.

⁹ *Price v. Price*, *supra*, where it was said: "This [domicil] is acquired by actual residence, coupled with the intention to reside in a given place or country * * *. If the intention of permanently residing in a particular place exists, a residence in pursuance of that intention, however short, will establish a domicile."

¹⁰ *In re Sedgwick* (C. C. A.), 223 Fed. 655.

change is effected—the time duration of the residence being immaterial.¹¹

In the recent case of *Carrier v. Getchell* (Neb.), 160 N. W. 969, a man sold his home and with his wife visited a friend in the same county. He later went into another county and rented a house, which at the time was occupied by a tenant; but he was given immediate possession of one room in which to store furniture, the entire possession to be given several weeks later. Shortly after his return his wife died and it became necessary to determine the place of her domicil for the purpose of distributing her estate. The court held it to be in the county where the husband had rented the house. The principle, that the domicil of the wife is determined by that of her husband, is too well settled to need discussion.¹² But it is not believed that the facts in the above case are sufficient to establish that the domicil of the husband was changed. He went into the new county with no intention of remaining there, but solely for the purpose of leasing a house into which he could subsequently move. Therefore the correct decision of the case would seem to turn upon the question whether after renting the house, he had formed an intention of remaining there permanently. It seems evident that no such intention was formed. He obtained possession of only one room and that for the express purpose of storing furniture until he could receive entire possession in the future. At best, he had but the present intention of moving furniture at once—which he did not do—and of himself moving with his wife at some future date. The mere moving of ones household goods does not affect his domicil; else whenever he stored his furniture his domicil would be changed. Nor does the intention to move to another place at some future date effect a change: there must be an actual removal, *animo et facto*.¹³

In the case of *White v. Tennant*,¹⁴ one domiciled in West Virginia rented a house just across the state boundary in Pennsylvania and moved there late one evening, intending to make his permanent home there; but, finding the house in an uninhabitable condition, he drove back into West Virginia to spend the night with a relative. He remained there several days, sickened and died. In a suit in West Virginia to set aside the distribution of his personal estate and to have the same administered according to the law of Pennsylvania, it was held that at his death he was domiciled in Pennsylvania, notwithstanding the fact that he died

¹¹ *White v. Tennant*, 31 W. Va. 790, 8 S. E. 596. See also, *Worsham v. Ligon*, 144 Ga. 707, 87 S. E. 1025.

¹² *MINOR, CONFL. L.* § 46; *Warrender v. Warrender*, 2 Cl. & F. 488; *Whitney v. Shipley*, 127 Md. 113, 96 Atl. 285. See also, *Barber v. Barber*, 21 How. 582.

¹³ *Shaw v. Shaw, supra*; *Ayer v. Weeks*, 65 N. H. 248, 18 Atl. 1108.

¹⁴ 31 W. Va. 790, 8 S. E. 596.

in West Virginia. In this case the deceased actually moved into Pennsylvania with the full intention of remaining there permanently, though he was actually present there only a short time—the change was made *animus manendi*. There existed, therefore, the two essential requisites of domicile—actual presence, coupled with the intention of residing there permanently or indefinitely.

In the absence of statute, the same rules should govern the change of domicile from one county to another within the same state, as a change from one state or country to another, both being based on the principles of private international law.